

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. Claims 1-7, 9-17, 19-21, 23, 38, 39 and 50-52 are currently pending in the present application.

Claims 1-5, 7, 9-16, 19-21, 23, 38, 39, and 50-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,117,505 to Weiss et al. (hereinafter “Weiss”) in view of US Patent No. 6,449,925 to Otsu et al. (hereinafter “Otsu”). Claim 1, as amended, recites an article of commerce having a longitudinally continuous web including a longitudinal down-web direction, a lateral cross-web direction, and lateral sides with superimposed first and second layers secured together by spaced apart lateral seals and longitudinal seals spaced along each longitudinal edge of the web. The first layer includes a gas permeable microbial barrier layer and the second layer is a thermoplastic gas impermeable layer. Longitudinally spaced laterally extending lines of weakness are included in the first or second layer where the lines of weakness are adjacent to one of the lateral seals. Further, longitudinally spaced laterally extending lines of separation are included in the other first or second layer with the lines of separation paired with the lines of weakness such that upon detachment of the web along the line of weakness access is created to a space between the first layer and the second layer on a first side of the line of weakness while maintaining the adjacent seal along a second side of the line of weakness. Finally, the seals between the layers are peelable seals delineating sides and an end of the space between the first and second layer for receiving a product to be sterilized by sterilizing gas passed through the permeable layer.

It is respectfully submitted that the combination of the teachings of Weiss and Otsu does not disclose the features of claim 1. Weiss does not teach or suggest, among other things, article of commerce having a web of sealed layers, as claimed in claim 1, having lines of separation paired with lines of weakness where the lines of weakness are adjacent to the one of the lateral seals such that upon detachment of the web along the line of weakness access is created to the space between the first layer and the second layer on a first side of the line of weakness while maintaining the adjacent seal along a second side of the line of weakness. As admitted in the Office Action, Weiss does not

teach or suggests line of weakness in the layers. The Office Action argues that Otsu cures the deficiencies in Weiss by providing a teaching of lines of weakness/perforations made in both layers at the same points so that the packages can be separated. However, in Otsu, sealable articles are sealed between two layers where perforations are provided to aid in separating adjacent “sealed” articles. This separation along the perforations results in a quantity of individual sealed packets that include a sealable article. In contrast, in present claim 1 the lines of weakness are provided adjacent to a seal in the web so that when the web is detached along successive lines of weakness, individual bags or pouches are created having a seal on three sides with one open end providing access to the space between the superimposed layers. One of ordinary skill in the art would not combine the teachings of Weiss with Otsu to obtain the features of claim 1

Additionally, Weiss does not teach using two layers of material but rather teaches using three layers of material. One of skill in the art in reading Weiss, absent the disclosure of the present application, would not be motivated to use less than three layers of material in creating a sterilizable pouch. In column 6, lines 48-66, Weiss states that the, “one of the principal advantages of the invention is in the ability to use the pouch, for steam-sterilization of heavy objects weighing up to about thirty pounds.” The ability to support heavy objects, as stated in Weiss, is accomplished by providing two layers of load-bearing material each having a load capacity where the combined load capacity of the layers is sufficient to support the weight of the object to be sterilized. Nowhere in Weiss is it implied or suggested to use only one layer. As such, one reading Weiss would not be motivated to design a pouch having only two layers of material where only one layer supports the weight of the sterilizable object. In this regard, Otsu does not cure the deficiencies of Weiss to teach the features of claim 1.

Moreover, the combined references do not teach a web as called for by claim 1. Claim 1 recites a web that is detachable along the lines of weakness. The lines of weakness are located adjacent to a lateral seal. Once separated a pouch having three sealed sides and one “open” side is created. The “opened” side of the pouch allows access to the space between the layers of material where a sterilizable object can be placed. At a later time, the “open” side can be sealed and the object subjected to

sterilization. The combination of Weiss with Otsu does not teach or suggest a web that is detachable to produce pouches having three sealed sides and an opening.

In view of the foregoing, claim 1 is non-obvious in view of the cited references. Withdrawal of the rejection is respectfully requested.

Claims 2-7 and 9-13 depend from claim 1 and are patentable over the cited references for the same reasons as claim 1 in view of their additional features. Withdrawal of the rejection of these claims is respectfully requested.

Claim 14 recites an article of commerce having a longitudinally continuous web including a longitudinal down-web direction, a lateral cross-web direction, and lateral ends. The web includes superimposed first and second layers being sealed together by seals along one lateral end and along spaced side portions where the first layer includes a gas permeable microbial barrier layer, and the second layer includes a thermoplastic gas impermeable layer. Also included are longitudinally spaced series of paired laterally extending lines of weakness and separation in the first and second layers. The first and second layers are sealed along a pair of laterally extending seal lines located proximate each paired lines of weakness and separation with the individual laterally extending seal lines in each pair of laterally extending seal lines separated by a paired lines of weakness and separation wherein upon detachment of the web along the line of weakness access is created to a space between the first layer and the second layer on a first side of the line of weakness while maintaining the adjacent seal along a second side of the line of weakness. Further, the seals between the layers are peelable seals delineating sides and an end of the space between the first and second layer to receive a product to be sterilized by sterilizing gas passed through the permeable layer.

The combination of Weiss with Otsu does not teach the elements of claim 14. For the reasons stated with regard to claim 1, the combined references do not teach that detachment along the line of weakness creates access to a space between the first and second layers on a first side of the line of weakness while maintaining the seal along a second side of the line of weakness. As such, claim 14 is patentable over the cited references. Withdrawal of the rejection is respectfully requested.

Claims 15-17, 19-21, and 23 depend from claim 14 and are patentable over the cited references for the same reasons as claim 14 in view of their additional features. Withdrawal of the rejection of these claims is respectfully requested.

Claim 38 is directed to an article of commerce having a longitudinally continuous web having a longitudinal down-web direction, a lateral cross-web direction, and lateral sides with superimposed first and second layers sealed together along the longitudinal sides and having spaced apart sealed lateral sides to define bags for packaging sterilizable items, wherein both the first and second layers are effective for preventing passage of microbes through the layer and at least the first layer is effective for permitting the passage of a sterilization gas. Longitudinally spaced laterally extending lines of weakness are included in one of the first and second layers and are adjacent to one of the lateral seals. Further, longitudinally spaced laterally extending lines of separation in the other of the first and second layers are paired with lines of separation where detachment of the web along the line of weakness creates access to a space between the first layer and the second layer on a first side of the line of weakness while maintaining the adjacent seal along a second side of the line of weakness. Finally, the seals between the layers are peelable to fully separate the layers one from the other whereby to facilitate sterile access to items packaged in such bags without fear of contamination by residue from either layer.

The combination of Weiss with Otsu does not teach the elements of claim 38. For the reasons stated with regard to claim 1, the combined references do not teach that detachment along the line of weakness creates access to a space between the first and second layers on a first side of the line of weakness while maintaining the seal along a second side of the line of weakness. As such, claim 38 is patentable over the cited references. Withdrawal of the rejection is respectfully requested.

Claim 39 depends from claim 38 and is patentable over the cited references for the same reasons as claim 38 in view of its additional features. Withdrawal of the rejection of claim 39 is respectfully requested.

Claim 50 recites a web for making sterilizable packages including an elongate strip of plastic material forming backs of a number of bags where the plastic strip is impervious to microbes and sterilizing gasses. Pieces of microbial barrier material being

impervious to microbes and permeable to sterilizing gasses is included an forms face layers. Seals are provided between the strips and the pieces to delineate individual bags each sealed at the sides and bottom and each with a top opening for the insertion of a sterilizable product. The seals are fully peelable whereby products sequentially inserted into the bags and packaged by heat sealing to close the openings in the bags may be sterilized and subsequently accessed with out fear of contamination by residues of a package resulting from such package being opened. Finally, spaced lines of weakness ae provided each in the strip adjacent to said bottom seal wherein upon detachment of the bag from the web along the line of weakness access is created to a bag on a first side of the line of weakness and a seal is maintained on a second side of the line of weakness, said line of weakness delineating bag ends and provides for facile separation of the bags, one from another.

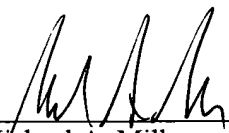
The combination of Weiss with Otsu does not teach the elements of claim 50. For the reasons stated with regard to claim 1, the combined references do not teach, among other features, that detachment along the line of weakness creates access to a space between the first and second layers on a first side of the line of weakness while maintaining the seal along a second side of the line of weakness. As such, claim 50 is patentable over the cited references. Withdrawal of the rejection is respectfully requested.

Claims 51-52 depend from claim 50 and are patentable over the cited references for the same reasons as claim 50 in view of their additional features. Withdrawal of the rejection of these claims is respectfully requested.

In view of the foregoing, the pending claims are not believed to be in condition for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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